



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

**MEMORANDUM**

**SUBJECT:** Notice of Proposed Suspension

**FROM:** Kenneth R. Lapierre  
Deputy Assistant Regional Administrator

*Kenneth R. Lapierre* 5/12/2014

**TO:** Lisa McKinley  
EEO Specialist

This is to notify you that I propose to suspend you for five (5) calendar days from your position as Equal Employment Opportunity (EEO) Specialist, with the Environmental Protection Agency (EPA), Region 4 in Atlanta, Georgia. If taken, this action will be effective no sooner than ten (10) calendar days from your receipt of this letter. I am proposing this action pursuant to Title 5, United States Code, (U.S.C.) Chapter 75, and Title 5 of the Code of Federal Regulations, Part 752, in order to promote the efficiency of the service. This proposed suspension is based on the charges discussed below:

**Charges:**

1. **Failure to Follow Supervisor's Instructions**
2. **Breach of Privacy and Disclosure of Confidential Information**

**Specifications:**

On March 11, 2014, while on Detail to the Air Division's Children's Health Section, you sent several email messages to your supervisor, Ms. Naima Halim-Chestnut and others. In your first email sent at 9:22 a.m., you provided information that relates to an upcoming Mediation Training sponsored by the Office of Civil Rights. You stated in this email: "Might want to have aggrieved (for the sake of this communication the employee's name has been removed and will further be referred to as aggrieved) come and talk about her experiences regarding her mediation (that I was working on prior to my detail)." You copied the aggrieved to inform her of your recommendation that she participate in the mediation training. In response to this email, Ms. Halim-Chestnut, replied directly to you and copied Veronica Robertson, only. She thanked you for the update and informed you that the aggrieved had not completed the mediation process and it was not appropriate to ask the aggrieved to participate in the training. Ms. Halim-Chestnut instructed you to provide information that you may have related to mediation training to Ms. Robertson and "no one else."

Despite Ms. Halim-Chestnut's instruction, you responded to her, copying Ms. Robertson, and adding the aggrieved, and two other individuals, [Stephen.McKinley@Gexpro.com](mailto:Stephen.McKinley@Gexpro.com) and [gvilla@morganlewis.com](mailto:gvilla@morganlewis.com). Neither works for EPA or has an agency related reason to receive personal or confidential information about EPA employees who participate in mediation or EEO related process.

As an EEO Specialist, you are held to high standards and expected to carry out the tenets of your duties with professionalism and confidentiality. You have been provided training as an EEO Specialist on your obligation to maintain confidentiality of information related to EEO and ADR. Moreover, you are responsible for overseeing the Region's ADR Program and have been trained on the fact that information surrounding employees who participate in mediation is considered confidential. The record also reflects that you have been admonished and disciplined regarding your inappropriate behavior within the Office of Civil Rights as it relates to sending emails to people who do not have an official and legitimate need to know about EPA business.

In selecting the proposed penalty, I have considered all the information known to me including the Table of Offenses and Penalties contained in EPA Order 3120.1. I have also considered your position, the nature and seriousness of your offense and their relation to your duties, the adequacy and effectiveness of alternative penalties to deter this type of conduct, your length of service and work record, the clarity with which you were on notice of any directive or instruction. I also considered the fact that in August 2013, you received a letter of warning for similar behavior. You also received a letter of reprimand for similar behavior in October 2013.

Breach of confidentiality and professionalism is particularly disturbing in view of your responsibilities as an EEO Specialist and the Region's ADR Coordinator. Due to the nature and seriousness of the misconduct outlined above, I believe that the penalty I am proposing is the best remedy available to promote the efficiency of the federal service.

If your conduct in this matter is attributable to personal or other problems, I advise you to contact the Employee Assistance Program (1-800-869-0276) counselors who are available to EPA employees. The counselors are trained to assist you in dealing with any personal or financial problems, and the information you share with them is strictly confidential.

You have the right to answer this proposed action orally and/or in writing and furnish affidavits and evidence in support of your reply(s). This is not a right to a trial or a formal hearing with an examination of witnesses, but it is an opportunity for you to present any and all reasons why you believe the proposed action should not be implemented. Any written reply(s) and/or written request for an oral reply should be submitted to Ms. V. Anne Heard, Acting Deputy Regional Administrator, no later than ten (10) calendar days after receipt of this letter. If you and/or your representative wish to make an oral reply, you may arrange an appointment with Ms. Heard through Rebecca Cover, (Ms. Heard's secretary) at 404-562-8343. Consideration will be given to extending the time limit for your reply(s) if an acceptable written justification is submitted to Ms. Heard before the reply period ends.

You have the right to present a reply without representation or you have the right to be accompanied, represented, and advised by an attorney or other representative of your choosing. However, you are solely responsible for all costs for any such representation. In selecting a representative, you should avoid individuals who would be disqualified due to conflicts of interest, the priority of the government business, or whose representational duties would create an unreasonable burden to the government. You may choose an Agency employee to represent you if that employee is willing and free to do so. Your choice of a representative must be designated in writing to Ms. Heard as soon as possible.

You will be granted a reasonable amount of official time, if otherwise in a duty status, to review any pertinent material or regulations on which this proposed action is based and to prepare your reply. You must request the use of official time from your supervisor in writing and must receive approval prior to

your actual use of duty time for these purposes. If you wish to review the material upon which this proposed action is based, please contact Carlos Asencio, Human Resources Specialist, at 404-562-8135.

No decision regarding this proposed action has been made or will be made until after the time for your oral and/or written reply(s) expires. Your reply(s), if provided, will be given thorough consideration before a final decision is made. Whether or not you elect to reply, you will be given written notice of the final decision. If you do not understand the procedures involved in this proposed action or if you have any questions, please contact Carlos Asencio at 404-562-8135.

Attachment

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ACKNOWLEDGMENT OF RECEIPT

I acknowledge receipt of this letter.

\_\_\_\_\_  
Lisa McKinley (Signature)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Employee declined to sign the acknowledgment of receipt.  
Mark Lynn May 7, 2014

